United States District Court Southern District of Texas

ENTERED

June 21, 2017 David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

	§	
ALIGN TECHNOLOGY, INC.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CASE NO. 4:11-CV-00695
	§	
CLEARCORRECT, INC.,	§	
CLEARCORRECT OPERATING, LLC,	§	
and CLEARCORRECT HOLDINGS, LLC,	, §	
	§	
Defendants.	§	

ORDER

Pending before the Court is Plaintiff Align Technology, Inc. ("Plaintiff")'s Motion to Dismiss ClearCorrect's Inequitable Conduct Counterclaim and Strike the Third Affirmative Defense. (Instrument No. 148).

and **DENIED** in part. (Instrument No. 148). Defendant ClearCorrect, Inc. ("Defendant")'s Fourth Amended Answer and Counterclaims plead inequitable conduct with sufficient particularity for the prosecution of the '874 patent but not for the '325, '880, '893, and '548 patents. See (Instrument No. 146); see also Exergen Corp. v. Wal-Mart Stores, Inc., 575 F.3d 1312, 1330 (Fed. Cir. 2009). Accordingly, Defendant's counterclaims of inequitable conduct for the '325, '880, '893, and '548 patents are **DISMISSED** with prejudice.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the day of June, 2017.

VANESSA D. GILMORE UNITED STATES DISTRICT JUDGE